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Attorney for Debtors HUERTA/MARTINEZ

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF CALIFORNIA, FRESNO

IN RE

ROBERTO HUERTA AND  
KRYSTYNA MARIA MARTINEZ,  
  
DEBTORS.

Chapter 13  
Case No.: 23-12433A-13F  
DC No. PBB-2

HEARING

ROBERTO HUERTA AND  
KRYSTYNA MARIA MARTINEZ,

Movant,

vs.

CITIBANK, N.A. SUCCESSOR BY  
ACQUISITION OF DEPARTMENT STORES  
NATIONAL BANK,

Respondent.

Date: January 11, 2024  
Time: 9:30 a.m.  
Dept: A  
Ctrm: 11 (5th Floor)  
United States Bankruptcy Court  
2500 Tulare Street  
Fresno, California 93721-1318

HONORABLE JENNIFER E. NIEMANN

**MOTION TO AVOID JUDICIAL LIEN OF CITIBANK, N.A. SUCCESSOR BY  
ACQUISITION OF DEPARTMENT STORES NATIONAL BANK**

1 Roberto Huerta and Krystyna Maria Martinez (herein after referred to as “Debtors”)  
2 move the court for an Order Avoiding and canceling Citibank, N.A. successor by acquisition of  
3 Department Stores National Bank (hereinafter, “DSNB”) judgment lien on Debtors’ real property.  
4 Said real property is Debtors’ residence and is located at 619 East Hopkins Avenue, Fresno,  
5 California 93706 (hereinafter referred to as “Debtors’ Residence”). The recording of the above-  
6 mentioned Abstract of Judgment creates a judicial lien within the purview of 11 U.S.C. §522(f)(1),  
7 and impairs debtors’ aforementioned exemption within the meaning of 11 U.S.C. §522(f).

8 1. This Motion is based on the facts set forth in the Declaration of Roberto  
9 Huerta and Exhibits to Declaration filed concurrently herewith.

10 2. On October 31, 2023 Debtors filed the above captioned case, pursuant to  
11 Chapter 13 of Title 11 of the United States Code.

12 3. The creditor holding the judicial lien that the Debtors wish to avoid is  
13 DSNB.

14 4. The address of the Debtors’ Residence is 619 East Hopkins Avenue, Fresno,  
15 California 93706 said property is exempt. Debtors’ Residence is situated in the City of Fresno,  
16 County of Fresno, State of California, and described as parcel number 334-294-06 and as  
17 follows:

18 LOT 14, TRACT NO. 1826, EASTON VILLAGE, ACCORDING TO THE MAP  
19 THEREOF RECORDED IN BOOK 20 PAGE 65 OF PLATS, RECORDS OF  
20 SAID COUNTY.

21 5. Filed concurrently herewith as Exhibit “A” is a copy of Debtors’  
22 Interspousal Transfer Deed recorded October 24, 2016 listing Roberto Huerta as a married man  
23 as his sole and separate property. Debtors at all relevant times have been married and resided in a  
24 Community property State. Joint-debtor holds a community interest in said Residence.  
25

26 6. Filed concurrently herewith as Exhibit “B” is a copy of page 1 of  
27  
28

Schedule A/B reflecting the total fair market value of Debtors' Residence at the time of their bankruptcy filing to be \$369,000.00.

7. Filed concurrently herewith as Exhibit "C" is a copy of Schedule D which reflects the following encumbrances against Debtors' Residence:

House Value \$369,000.00	Dates	Current Amount Owed
Loancare LLC	Recorded 10/2016	\$170,464.00
Wells Fargo Bank NA	Recorded 11/30/2021	\$0.00
Department Stores National Bank	Recorded 12/05/2022	\$8,742.73

8. DSNB, Respondent, named in this Motion was duly listed as a creditor in the Schedules filed in support of the Petition herein and was served with notice of the bankruptcy proceeding.

9. Filed concurrently herewith as Exhibit "D" is a copy of the Abstract of Judgment recorded on behalf of DSNB. On October 12, 2022 DSNB, with attorney Donald Sherrill, entered a judgment lien in its favor and against Debtor, Roberto Huerta, in case number 22CECL02165. On November 15, 2022 DSNB was issued an abstract of judgment which was subsequently issued and was recorded in Fresno County Hall of Records on December 5, 2022 as document number 2022-0145308.

10. Filed concurrently herewith as Exhibit "E" is a copy of Schedule C which reflects exemption under California Code of Civil Procedure §704.730 in the amount of \$340,000.00. The Debtors believe they are entitled to the exemption as claimed. They meet all the requirements of the above-mentioned state statute and the requirements of 11 USC §522 and all of its subparts.


11. By the time the Debtors' motion is heard more than 30 days will have elapsed since the conclusion of the Meeting of Creditors. Debtors assert that they are entitled to the exemption as claimed. At all relevant times herein, Debtors resided in Debtors' Residence.

12. The Debtors' Residence has a market value of \$369,000.00. After

1 reducing the First Deed of Trust, all its liens and the Debtors' exemption as allowed there is no  
2 value remaining which would secure the judicial lien held by DSNB. Debtors wish to avoid all of  
3 the judgment lien of the Respondent.  
4

5 WHEREFORE, Debtors requests that the court issue an Order avoiding and  
6 canceling the judicial lien of Citibank, N.A. successor by acquisition of Department Stores  
7 National Bank and against Debtors' real property.  
8

9  
10 Date: NOV 27 2023

  
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PETER B. BUNTING  
Attorney at Law